

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION) MDL No. 1:13-md-2419-RWZ
)
This Document Relates to:)
All Cases)
)

**[PROPOSED] ORDER TRANSFERRING ADDITIONAL
PERSONAL INJURY TORT AND WRONGFUL DEATH
CASES TO THIS COURT PURSUANT TO 28 U.S.C. §§ 157(b)(5)**

Upon consideration of Defendant Insight Health Corp.’s request for a supplemental order transferring additional personal injury tort and wrongful death cases pursuant to 28 U.S.C. § 157(b)(5) (“Insight’s Request”) to further effectuate the Court’s memorandum of decision dated May 15, 2014 [MDL Docket No. 1131] and also the Chapter 11 Trustee’s renewed and supplemental motion (the “Motion”) to transfer to this court additional personal injury tort and wrongful death cases pursuant to 28 U.S.C. § 157(b)(5) [MDL Docket No. 732], the Trustee’s supplemental and amended Exhibits 1 to the Motion [MDL Docket Nos. 1027 and 1119], and the memoranda in support thereof, the Court finds that the relief sought in the Request is in the best interests of the debtor, its estate, creditors, claimants, and other parties-in-interest. After due deliberation and sufficient cause appearing therefore, and for the reasons set forth in this court’s memorandum of decision [MDL Docket No. 1131] dated May 15, 2014, and the Court’s order of June 5, 2014 [MDL Docket No. 1173] the court hereby grants Insight’s Request.

Accordingly, it is hereby

1. ORDERED that, pursuant to 28 U.S.C. § 157(b)(5), the personal injury and wrongful death cases identified on Exhibit A attached hereto (the “Virginia Federal Court

Cases") are transferred to this court from the U.S. District Court for the Western District of Virginia in which they are conditionally pending based upon various Conditional Transfer Orders entered by the Judicial Panel on Multidistrict Litigation; and it is further

2. ORDERED that Defendant Insight Health Corp. shall file a Notice of Transfer Pursuant to 28 U.S.C. § 157(b)(5), and a copy of this Order in each of the Virginia Federal Court Cases, in the form of Exhibit B hereto, in the U.S. District Court for the Western District of Virginia and with the Judicial Panel on Multidistrict Litigation, and electronically serve all counsel of record with such notice, except as to the *Baker* case referenced below; and it is further

3. ORDERED that, pursuant to 28 U.S.C. § 157(b)(5), the clerk of the U.S. District Court for the Western District of Virginia, Roanoke Division, shall thereafter promptly transfer the case file pertaining to each of the Virginia Federal Court Cases to the clerk of the District Court for the District of Massachusetts; and it is further

4. ORDERED that plaintiffs, defendants, and their counsel shall promptly take any and all actions necessary to effectuate the transfer of the Virginia Federal Court Cases pursuant to this Order; and it is further

5. ORDERED that this Order shall not modify or in any way affect the automatic stay that applies to the Virginia Federal Court Cases under 11 U.S.C. § 362 and which shall remain in full force and effect pending further order of this Court or the bankruptcy court; and it is further

6. ORDERED that this Order is entered without prejudice to any position that the Trustee may take regarding whether 11 U.S.C. §§ 105 and 362 operate to stay any Virginia Federal Court Case or to render null and void the post-petition filing of any Virginia Federal Court Case; and it is further

7. ORDERED that given the previous transfer by the Judicial Panel on Multidistrict Litigation to MDL 2419 by Order dated June 4, 2014 [JPMDL 2419 Doc. No. 486], of the case filed by Chance Baker, *Baker v. Alaunus Pharmaceutical, LLC, et al.*, C.A. No. 7:14-0095, that no further Notice of Transfer shall be required, and that related to jurisdiction exists as to this action for the reasons set forth in the decision [MDL Docket No. 1131].

DATE

RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE